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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,634	10/15/2001	Kiyofusa Egashira	JP920000319US1	3272

7590 12/28/2005
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EXAMINER

POND, ROBERT M

ART UNIT PAPER NUMBER

3625

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,634

Applicant(s)

EGASHIRA ET AL.

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/27/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

All pending claims (1-10) were examined in this non-final office action necessitated by new grounds of rejection.

Response to Arguments

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 1. Claims 1-3 and 6-8 are rejected under 35 USC 102(b) as being anticipated by Fisher (US 5,835,896).**

Fisher teaches all the limitations of claims 1-3 and 6-8. For example, Fisher discloses a system and method for conducting a multi-bidder, interactive auction (see at least abstract; Fig. 1 and 2). Fisher further discloses:

- Obtaining supply information from at least one supplier and storing: storing supplier's minimum bid and supplier's list price (see at least Fig. 2; Fig. 4 (30); Figs. 9-11 (93); col. 6, lines 20-30; col. 10, lines 12-14).
- Receiving purchase wish information and storing: bidder submits bid (see at least Fig. 2 (Current high bidder's table); Fig. 4 (31); Fig. 5 (46); Fig. 9 (91); Fig. 10 (111); Fig. 11 (131); col. 7, lines 42-49; col. 10, lines 6-62).
- Predetermined time period: bid closing; over a period of time (see at least col. 4, lines 20-25).
- Selecting optimum combination; comparing the desired purchase price and desired purchase quantity: Ranks bids in descending order by price (see at least Fig. 9 (91); Fig. 10 (111)); ranks bids in descending order by price and quantity (see at least Fig. 11 (131)); accumulates rolling quantity for commodity quantity allocation (see at least Figs. 9-12 (94)).
- Transmitting notification: notification on bids (see at least Fig. 4 (24, 27); col. 8, lines 15-29).
- Supply quantity ranges: system supports concurrent bid sessions; offering multiple lots (see at least col. 8, lines 5-14). Please note examiner's interpretation: system supports auctioning similar or same product with varying or same quantities concurrently.

Pertaining to system claims 6-8

Rejection of claims 6-8 is based on similar rationale as noted above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4-5 and 9-10 rejected under 35 USC 103(a) as being unpatentable over Fisher (US 5,835,896) in view of Official Notice (regarding old and well-known in the arts)

Fisher teaches all the above as noted under the 102(b) rejection and teaches maximizing value to the seller, but does not disclose factoring gross profit into the decision-making process. The Examiner takes the position that it is old and well-known in the arts to calculate gross profit as claimed by calculating total sales and subtracting from total sales the total cost of the item sold. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Fisher to disclose gross profit calculations as taught by Official Notice, in order to quantify gross profit for sellers, and thereby attract sellers to the service.

Pertaining to system Claims 9-10

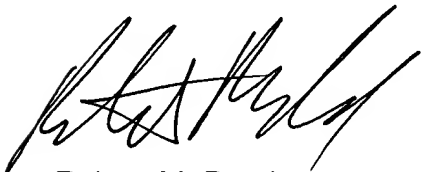
Rejection of Claims 9-10 is based on similar rationale as noted above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert M. Pond
Primary Examiner
December 23, 2005